

### **Remarks**

The Final Office Action of April 16, 2010 has been received and reviewed. In this response, claims 1, 22, 44, 65, and 68-72 have been amended, claim 73 has been added, and no claims have been canceled, leaving claims 1-5, 7-14, 16, 18-24, 26-36, 38, 40-48, 50-57, 59, 61-65, and 68-73 pending. Reconsideration and withdrawal of the rejections are respectfully requested as discussed herein.

### **Claim Amendments**

Claims 1, 44, 65, and 68-72 have been amended to recite a first conductive metal coating covering and in contact with said first end and a second conductive metal coating covering at least a portion of said ferrule outer surface and covering and in contact with the first/said conductive metal coating on the first end of the terminal. Claim 22 has been amended to recite a first conductive metal coating covering and in contact with said first end of said terminal and wherein the second conductive metal coating covers and is in contact with the first conductive metal coating on the first end of the terminal. Support for these amendments may be found in the application as filed at, e.g., paragraphs [0027]-[0028] & [0083]-[0084] and Figures 1-3 & 6.

Entry and consideration of these claim amendments are respectfully requested.

### **New Claim**

New claim 73 has been presented herein to, e.g., provide more comprehensive coverage. Support for this new claim may be found in the application as filed at, e.g., originally-filed claims 1 & 15, paragraphs [0027]-[0028] & [0083]-[0084], and Figures 1-3 & 6.

Further, new independent claim 73 recites, amongst other things, a second conductive metal coating covering and in contact with the first conductive metal coating, which, as discussed below, has not been identified by the Final Office Action within the cited prior art.

Entry, consideration, and allowance of this new claim are respectfully requested.

**The 35 U.S.C. §103 Rejections****Claims 1-2, 5, 7-14, 16, 18-22, 26-36, 38, 40-45, 48, 50-57, 59, and 61-65**

Claims 1-2, 5, 7-14, 16, 18-22, 26-36, 38, 40-45, 48, 50-57, 59, and 61-65 were rejected under 35 U.S.C. §103(a) as being unpatentable over Seifried et al. (U.S. Patent No. 5,531,003) in view of Stevenson et al. (U.S. Patent No. 6,008,980 00 – hereinafter Stevenson et al. '980) and in view of Dahlberg et al. (U.S. Patent No. 5,245,999). Applicants respectfully traverse this rejection and the assertions made in support of it.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. See *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1970). Applicants respectfully submit that the combination of Seifried et al., Stevenson et al. '980, and Dahlberg et al. does not teach or suggest all the elements recited in claims 1-2, 5, 7-14, 16, 18-22, 26-36, 38, 40-45, 48, 50-57, 59, and 61-65 and, as a result, a *prima facie* case of obviousness has not been established with respect to claims 1-2, 5, 7-14, 16, 18-22, 26-36, 38, 40-45, 48, 50-57, 59, and 61-65.

Amended independent claims 1, 22, 44, and 65 (from which claims 2, 5, 7-14, 16, 18-21, 26-36, 38, 40-43, 45, 48, 50-57, 59, and 61-64 depend) all recite, *inter alia*, a second conductive metal coating (i.e., being a noble metal or a noble metal alloy) covering and in contact with (claims 1, 44, and 65)/ covers and is in contact with (claim 22) the first/said conductive metal coating (i.e., being a refractory metal) on the first end of the terminal. In essence, such recitation may be symbolized using the following:

**2<sup>nd</sup> Coating (Noble Metal) -on a- 1<sup>st</sup> Coating (Refractory Metal) -on a- Terminal**

Among the reasons for Applicant's position that a *prima facie* case of obviousness has not been established is that nothing has been identified within the disclosures of Seifried et al., Stevenson et al. '980, and Dahlberg et al. (taken alone or together) that teaches or suggests a second conductive metal coating (i.e., being a noble metal or a noble metal alloy) covering and

in contact with/covers and is in contact with the first conductive metal coating (i.e., being a refractory metal) on the first end of the terminal as required for a *prima facie* case of obviousness with respect to independent claims 1, 22, 44, and 65.

It has been admitted in the Final Office Action that Seifried et al. fails to disclose a second conductive coating of a noble metal. *See Final Office Action*, page 3, ¶ 5, April 16, 2010. To remedy this deficiency, it has been asserted that Stevenson et al. '980 teaches "that it is known to use a process for sputtering down an adhesion layer of titanium, and electroplating nickel over it, and finally gold is sputtered over the nickel layer in feedthrough systems." *Final Office Action*, page 3, page 3, ¶ 5, April 16, 2010. Further, Dalhberg et al. has been cited, but only for its teachings with respect to "connecting means."

None of the references, however, taken alone or together, teach or suggest a second conductive metal coating, i.e., noble metal or noble metal alloy, covering and in contact with a first conductive metal coating, i.e., refractory metal, on the first end of the terminal as required for a *prima facie* case of obviousness with respect to independent claims 1, 22, 44, and 65.

Seifried et al. teaches a pin metalized with a protective metal coating, i.e., nickel, copper, molybdenum, tungsten, hafnium, aluminum, indium, iridium, zinc, gold, platinum, palladium, and titanium. In essence, the teachings of Seifried et al. may be symbolized using the following:

#### **Noble/Refractory/Other Metal Coating -on a- Pin**

As such, Seifried et al. does not teach a second conductive metal coating, i.e., noble metal or noble metal alloy, covering and in contact with a first conductive metal coating, i.e., refractory metal, on the first end of the terminal for at least the reason that Seifried et al. only teaches a single coating.

Stevenson et al. '980 teaches a first metallization layer 64 used on a portion of the feedthrough capacitor 34. *See Stevenson et al. '980*, column 7, lines 2-14. The first metallization layer 64 includes an adhesion layer (e.g., titanium) formed on the pin 30, a nickel layer formed on the adhesion layer, and a gold layer formed on the nickel layer. (Please note that the second metallization layer 68 as described in Stevenson et al. '980 is not located adjacent or close to the

first metallization layer 64 – instead the second metallization layer 68 appears to be located only on the outer surface of the ferrule. *See Stevenson et al. '980*, column 7, lines 14-30 and Figure 6A.) In essence, the teachings of Stevenson et al. '980 may be symbolized using the following:

**Gold layer -on a- Nickel layer -on a- Adhesion layer (e.g., Ti) -on a- Capacitor**

As such, Stevenson et al. '980 does not teach a second conductive metal coating, i.e., noble metal or noble metal alloy, covering and in contact with a first conductive metal coating, i.e., refractory metal, on the first end of the terminal. Instead, at best, Stevenson et al. '980 teaches a noble metal layer, e.g., the gold layer, on a nickel layer, which is not a refractory metal. Further, the entire metallization layer 64, including the adhesion layer, of Stevenson et al. '980 is not in contact with a terminal—instead, the metallization layer 64 is in contact with a portion of the capacitor 34 and a metal braze 66 is used between the metallization layer 64 and the terminal pin 30. *See Stevenson et al. '980*, Figure 5.

As a result, none of the references teach or suggest a second conductive metal coating, i.e., noble metal or noble metal alloy, covering and in contact with a first conductive metal coating, i.e., refractory metal, on the first end of the terminal as described in independent claims 1, 22, 44, and 65 (from which claims 2, 5, 7-14, 16, 18-21, 26-36, 38, 40-43, 45, 48, 50-57, 59, and 61-64 depend). For this reason alone, Applicants respectfully submit that a *prima facie* case of obviousness has not been established with respect to claims 1-2, 5, 7-14, 16, 18-22, 26-36, 38, 40-45, 48, 50-57, 59, and 61-65.

In an attempt to combine the disclosures of Seifried et al. and Stevenson et al. '980, the following has been asserted in the Final Office Action:

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Seifried with a second metallic coating of a noble metal, where the first coating serves as an adhesive as taught by Stevenson, since such a modification would provide the predictable results of a second metallic coating of a noble metal, where the first metal serving as an adhesive provides for displacement of surface oxidation and providing for greater conductive contact and increased depositing of the second coating.

*Final Office Action*, pages 3-4, ¶ 5, April 16, 2010.

In this case,

Stevenson has disclosed the first metallization layer serving as an adhesion layer for a secondary coating, and Seifried has disclosed the outer coating to provide the benefits of reducing/eliminating oxidation build up.

*Final Office Action*, page 11, ¶ 26, April 16, 2010.

In view of the previous assertion in the Final Office Action that "Seifried fails to disclose a second conductive coating of a noble metal" (*Final Office Action*, page 3, ¶ 5, April 16, 2010) and the two excerpts from the Final Office Action above, it is unclear which layers from Seifried et al. and Stevenson et al. '980 are being combined to support this obviousness rejection. For example, it is unclear whether the metal coating of Seifried et al. is being equated to the claimed first conductive metal coating or the claimed second conductive metal coating, and whether the adhesion layer of Stevenson et al. '980 is being equated to claimed first conductive metal coating or the claimed second conductive metal coating. If this rejection is maintained, Applicants respectfully request clarification on this matter to be included in the next Official Communication.

Nonetheless, it appears that it has been asserted in the Final Office Action that the adhesion layer, i.e., titanium, of Stevenson et al. '980 is equivalent to the claimed first conductive metal coating, i.e., refractory metal, and that the metal coating of Seifried et al. is equivalent to the claimed second conductive metal coating, i.e., noble metal or noble metal alloy. To support the combination of the metal coating of Seifried et al. covering and in contact with the adhesion layer of Stevenson et al. '980, it has been asserted in the Final Office Action that Stevenson et al. '980 discloses "the first metallization layer serving as an adhesion layer for a secondary coating." *Final Office Action*, page 11, ¶ 26, April 16, 2010.

Stevenson et al. '980, however, does not teach the use of a second conductive metal coating that is noble metal or noble metal alloy covering and in contact with the adhesion layer. Instead, Stevenson et al. '980 clearly describes the use of an adhesion layer to be covered and in contact with a nickel layer, which is not a noble metal or noble metal alloy. As a result, a person having ordinary skill in the art would not cover the adhesion layer of Stevenson et al. '980 with a second conductive metal coating that is noble metal or noble metal alloy because Stevenson et al. '980 does not disclose the use of a second conductive metal coating that is noble metal or noble metal alloy covering and in contact with the adhesion layer.

Further, as shown in the above excerpt, it has been asserted again in the Final Office Action that Stevenson et al. '980 teaches that the first adhesive layer may be used "to displace surface oxide and provide for greater conductive contact and increased depositing of the second coating." *Final Office Action*, page 3, ¶ 5, April 16, 2010; *Office Action*, page 3, ¶ 5, November 9, 2009.

Applicants have previously argued that Stevenson et al. '980 does not actually teach that the adhesive layer provides such functions attributed to it by the Examiner, and in the absence of such support, a *prima facie* case of obviousness cannot be supported by the cited references because no reasoning (e.g., motivation, suggestion, desirability, etc.) has been provided to show why one of ordinary skill in the art would make the proposed modification. *See Response*, March 5, 2010, pages 3-4.

Applicants note that no portions of Stevenson et al. '980 have been identified in the Final Office Action as teaching the functions (e.g., displacing surface oxide, providing for greater conductive contact, and increasing depositing of the second coating) attributed to it in the previous Office Action nor has the assertion that Stevenson et al. '980 teaches the asserted functionality been retracted. **If this rejection is maintained, Applicants respectfully request identification of portions of Stevenson et al. '980 that teach the following functions "to displace surface oxide and provide for greater conductive contact and increased depositing of the second coating" to be included in the next Official Communication.**

Still further, Applicants have previously argued that the combination of Seifried et al. and Stevenson et al. '980 would not provide "predictable results," and if the doctrine of inherency is being relied upon, then no facts or technical reasoning have been provided to establish that the proposed modifications to the metal coatings of Seifried et al. in view of Stevenson et al. '980 would necessarily provide the properties upon which this obviousness rejection is based (e.g., displacement of surface oxidation, greater conductive contact, increased depositing of the second coating, etc.). *See Response*, March 5, 2010, pages 4-5.

In response, the following has been asserted in the Final Office Action:

25. Applicant argues that Stevenson fails to teach the predictable results relied upon for modifying Seifried. Examiner respectfully disagrees. Stevenson teaches that use of a combination of metal layers that includes a first adhesive layer at least provides the predictable result of the first layer acting as an adhesion layer for the second layer and the second layer providing greater conductive contact (e.g. Col. 7, line 1-46). Further Examiner considers that Stevenson's disclosure of the first metallization layer serving as an adhesion layer necessarily means that the first layer will facilitate the second layer deposition coating.

*Final Office Action*, pages 9-10, ¶ 25, April 16, 2010.

As discussed herein, Stevenson et al. '980, at best, only teaches the use of a nickel layer covering and in contact with the titanium adhesion layer. In other words, the adhesion layer of Stevenson et al. is not described as being covered and in contact with any material other than nickel. As a result, the only "predictable result" one of ordinary skill in the art would grasp from Stevenson et al. '980 is that a nickel layer may cover and be in contact with the adhesion layer.

As shown in the excerpt above, however, it has been asserted in the Final Office Action that the "Examiner considers that Stevenson's disclosure of the first metallization layer serving as an adhesion layer necessarily means that the first layer will facilitate the second layer deposition coating." *Final Office Action*, page 10, ¶ 25, April 16, 2010 (emphasis added). As result, it appears the Examiner believes that the adhesion layer taught by Stevenson et al. '980 inherently facilitates deposition of a noble metal or noble metal alloy over the adhesion layer. As discussed above, however, Stevenson et al. '980 teaches only deposition of nickel on the adhesion layer—not a noble metal or noble metal alloy.

"The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic." M.P.E.P. § 2112(IV) (emphasis in original, citations omitted). "Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of



circumstances is not sufficient." M.P.E.P. § 2112(IV), *citing In re Robertson*, 169 F.3d 743, 745, 49 U.S.P.Q.2d 1949, 1950-51 (Fed. Cir. 1999). "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." M.P.E.P. § 2112(IV), *citing Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original).

For a proper obviousness rejection based on inherency, the Examiner must show, by fact or technical reasoning, that the adhesion layer of Stevenson et al. '980 necessarily "will facilitate the second layer deposition" of a coating that is a noble metal or noble metal alloy. No such facts or reasoning have, however, been provided. Instead, the Examiner has merely speculated that the adhesion layer of Stevenson et al. will facilitate a second layer deposition of noble metal or noble metal alloy because Stevenson et al. '980 teaches that the adhesion layer facilitates a second layer deposition of nickel. Speculation alone is not, however, sufficient to support a *prima facie* obviousness rejection based on inherency.

For at least the reasons presented herein, Applicants respectfully submit that the asserted combination of Seifried et al., Stevenson '980, and Dahlberg et al. does not support a *prima facie* case of obviousness with respect to claims 1-2, 5, 7-14, 16, 18-22, 26-36, 38, 40-45, 48, 50-57, 59, and 61-65. Reconsideration and withdrawal of this rejection are, therefore, respectfully requested.

#### Claims 7-8, 26-27, and 50-51

In addition to the reasons presented above with respect to all of rejected claims 1-2, 5, 7-14, 16, 18-22, 26-36, 38, 40-45, 48, 50-57, 59, and 61-65, Applicants also submit that a *prima facie* case of obviousness has not been established with respect to pending claims 7-8, 26-27, and 50-51 because the assertions made in support of the rejection of these claims are not supported by the cited references. In particular, it has been asserted that one of ordinary skill would have been motivated "to substitute either rhodium or ruthenium as the conductive metal coating since

such modification would provide the predictable results of minimizing and controlling the growth of oxidation on the terminal . . . ." *Final Office Action*, page 6, ¶ 11, April 16, 2010.

That assertion is not, however, supported by any of the references relied on in support of the obviousness rejection of claims 7-8, 26-27, and 50-51 (which, as admitted in the *Final Office Action*, do not disclose the use of rhodium or ruthenium as a metal coating).

Furthermore, if, in place of explicit support, it is the intent of the Examiner to rely on some asserted inherent properties with respect to metal coatings of rhodium or ruthenium, then Applicants respectfully submit that the standards for a rejection based on inherency have not been met. Specifically, no facts or technical reasoning have been provided to establish that coatings of rhodium or ruthenium, in combination with all of the other elements recited in the claims would necessarily provide the properties upon which this obviousness rejection is based (e.g., "minimizing and controlling the growth of oxidation on the terminal").

This argument was previously presented in the Response of March 5, 2010. **The Examiner has failed to respond to this argument in the present Final Office Action.** "In order to provide a complete application file history and to enhance the clarity of the prosecution history record, an examiner must provide clear explanations of all actions taken by the examiner during prosecution of an application." M.P.E.P. § 707.07(f) (emphasis added). "Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it." M.P.E.P. § 707.07(f) (emphasis added). "The examiner should never lose sight of the fact that in every case the applicant is entitled to a full and fair hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal." M.P.E.P. § 706.07 (emphasis added).

If this rejection is maintained, Applicants respectfully request identification of a portion of Stevenson et al. '980 that teaches substituting either rhodium or ruthenium as the conductive metal coating to provide the predictable results of minimizing and controlling the growth of oxidation on the terminal to be included in the next Official Communication.

As a result, Applicants respectfully submit that the asserted combination of Seifried et al., Stevenson '980, and Dahlberg et al. does not establish a *prima facie* case of obviousness with

respect to claims 7-8, 26-27, and 50-51. Reconsideration and withdrawal of this rejection are, therefore, respectfully requested.

Claims 17, 39, and 60

In addition to the reasons presented above with respect to all of rejected claims 1-2, 5, 7-14, 16, 18-22, 26-36, 38, 40-45, 48, 50-57, 59, and 61-65, Applicants also submit that a *prima facie* case of obviousness has not been established with respect to pending claims 17, 39, and 60 because the assertion made in support of the rejection of these claims is not supported by the cited references. In particular, it has previously been asserted that "Stevenson et al. [U.S. Patent No. 6,008,980] discloses that the second conductive coating is a noble metal (gold)." *Office Action*, page 6, ¶ 14, November 9, 2009. Such assertion, however, appears to be missing from the present Final Office Action of April 16, 2010—in fact, claims 17, 39, and 60 appear to be unaddressed in the present Final Office Action.

Nonetheless, that assertion is also not supported by Stevenson et al. '980 which, instead, discloses the use of nickel as the second conductive coating between the underlying titanium layer and a gold layer. *See, e.g., Stevenson '980*, column 7, lines 7-14 and 30-35.

This argument was previously presented in the Response of March 5, 2010. **The Examiner has failed to respond to this argument in the present Final Office Action.** "In order to provide a complete application file history and to enhance the clarity of the prosecution history record, an examiner must provide clear explanations of all actions taken by the examiner during prosecution of an application." M.P.E.P. § 707.07(f) (emphasis added). "Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it." M.P.E.P. § 707.07(f) (emphasis added). "The examiner should never lose sight of the fact that in every case the applicant is entitled to a full and fair hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal." M.P.E.P. § 706.07 (emphasis added).

If this rejection is maintained, Applicants respectfully request identification of the portion of Stevenson et al. '980 that teaches a second conductive coating that is a noble metal (gold) to be included in the next Official Communication.

As a result, Applicants respectfully submit that a *prima facie* case of obviousness with respect to claims 17, 39, and 60 has not been established. Reconsideration and withdrawal of this rejection are, therefore, respectfully requested.

Claims 18-19, 40-41, and 62-63

In addition to the reasons presented above with respect to all of rejected claims 1-2, 5, 7-14, 16, 18-22, 26-36, 38, 40-45, 48, 50-57, 59, and 61-65, Applicants also submit that a *prima facie* case of obviousness has not been established with respect to pending claims 18-19, 40-41, and 62-63 because the assertions made in support of the rejection of these claims are not supported by the cited references. In particular, it has been asserted that "Stevenson et al. [U.S. Patent No. 6,008,980] discloses that since the ferrule is often formed of a material susceptible to oxidation, such a coating helps guarantee a long term electrical connection will remain oxide free, but fails to specifically disclose that the conductive coating may be titanium or niobium." *Final Office Action*, page 7, ¶ 14, April 16, 2010.

That assertion is not, however, supported by Stevenson et al. '980. In fact, Stevenson et al. '980 is silent as to any issues regarding oxidation of ferrules or any other components.

Nor does Stevenson '980 disclose or suggest the use of niobium as a metal coating as recited in rejected claims 19, 41, and 62.

These arguments were previously presented in the Response of March 5, 2010. **The Examiner has failed to respond to these arguments in the present Final Office Action.** "In order to provide a complete application file history and to enhance the clarity of the prosecution history record, an examiner must provide clear explanations of all actions taken by the examiner during prosecution of an application." M.P.E.P. § 707.07(f) (emphasis added). "Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it." M.P.E.P. § 707.07(f) (emphasis

added). "The examiner should never lose sight of the fact that in every case the applicant is entitled to a full and fair hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal." M.P.E.P. § 706.07 (emphasis added).

If this rejection is maintained, Applicants respectfully request identification of the portions of Stevenson et al. '980 that teach that "since the ferrule is often formed of a material susceptible to oxidation, such a coating helps guarantee a long term electrical connection will remain oxide free" and the use of niobium as a metal coating to be included in the next Official Communication.

For at least these reasons, Applicants respectfully submit that a *prima facie* case of obviousness with respect to claims 18-19, 40-41, and 62-63 has not been established. Reconsideration and withdrawal of this rejection are, therefore, respectfully requested.

Claims 3, 23, 46, 68, 70, and 72

Claims 3, 23, 46, 68, 70, and 72 were rejected under 35 U.S.C. §103(a) as being unpatentable over Seifried et al. (U.S. Patent No. 5,531,003) in view of Stevenson et al. (U.S. Patent No. 6,159,560 – hereinafter Stevenson et al. '560) and in view of Dahlberg et al. (U.S. Patent No. 5,245,999) as applied above and further in view of Pless et al. (U.S. Patent No. 5,131,388). Applicants respectfully traverse this rejection and the assertions made in support of it.

At the outset, the Stevenson et al. '980 patent cited in support of the obviousness rejection of claims 1-2, 5, 7-14, 16, 18-22, 26-36, 38, 40-45, 48, 50-57, 59, and 61-65 (i.e., U.S. Patent No. 6,008,980) is not the same patent as Stevenson et al. '560 relied on in support of this obviousness rejection of claims 3, 23, 46, 68, 70, and 72 (i.e., U.S. Patent No. 6,159,560). As a result, reliance on Seifried et al. in view of Stevenson et al. '560 and Dahlberg et al. "as applied above" is not a proper basis for this obviousness rejection. For at least this reason, Applicants respectfully submit that a *prima facie* case of obviousness has not been established with respect to claims 3, 23, 46, 68, 70, and 72.

**This argument was previously presented in the Response of March 5, 2010. The Examiner has failed to respond to this argument in the present Final Office Action.** If this rejection is maintained, Applicants respectfully request clarification regarding the usage of Stevenson et al. '560 to be included in the next Official Communication.

In addition, however, claims 3, 23, and 46 depend, respectively, from independent claims 1, 22, and 44. If it was the Examiner's intention to reject claims 3, 23, 46, 68, 70, and 72 as obvious over Seifried et al. in view of Stevenson et al. '980, Dahlberg et al., and Pless et al., Applicants respectfully submit that, as discussed above, a *prima facie* case of obviousness has not been established with respect to claims 1, 22, and 44. Applicants further submit that Pless et al. does not address the shortcomings of that primary obviousness rejection and, for at least that reason, the asserted obviousness rejection of dependent claims 3, 23, and 46 also does not meet the requirements for a *prima facie* case of obviousness.

With respect to independent claims 68, 70, and 72, the discussion provided above in connection with the asserted obviousness rejection of claims 1-2, 5, 7-14, 16, 18-22, 26-36, 38, 40-45, 48, 50-57, 59, and 61-65 in view of the combination of Seifried et al., Stevenson et al. '980, and Dahlberg et al. applies equally as well to claims 68, 70, and 72. As noted above, the combination of Seifried et al., Stevenson et al. '980, and Dahlberg et al. does not support a *prima facie* case of obviousness with respect to claims 1-2, 5, 7-14, 16, 18-22, 26-36, 38, 40-45, 48, 50-57, 59, and 61-65 and Pless et al. does not address the shortcomings of that asserted obviousness rejection. For at least these reasons, Applicants respectfully submit that a *prima facie* case of obviousness has not been established with respect to claims 68, 70, and 72 over the combination of Seifried et al., Stevenson et al. '980 and Dahlberg et al.

For at least the reasons provided above, Applicants respectfully submit that a *prima facie* case of obviousness has not been established with respect to claims 3, 23, 46, 68, 70, and 72 over the combination of Seifried et al., Stevenson et al. '560 (or Stevenson et al. '980), Dahlberg et al., and Pless et al. Reconsideration and withdrawal of this rejection are, therefore, respectfully requested.

Claims 4, 16, 24, 47, 65, 68-69, and 71-72

Claims 4, 16, 24, 47, 65, 68-69, and 71-72 were rejected under 35 U.S.C. §103(a) as being unpatentable over Seifried et al. (U.S. Patent No. 5,531,003) in view of Stevenson et al. (U.S. Patent No. 6,159,560 – hereinafter Stevenson et al. '560) and in view of Dahlberg et al. (U.S. Patent No. 5,245,999) as applied above and further in view of Langer (U.S. Patent No. 4,254,775). Applicants respectfully traverse this rejection and the assertions made in support of it.

As above, the Stevenson et al. '980 patent cited in support of the obviousness rejection of claims 1-2, 5, 7-14, 16, 18-22, 26-36, 38, 40-45, 48, 50-57, 59, and 61-65 (i.e., U.S. Patent No. 6,008,980) is not the same patent as Stevenson et al. '560 relied on in support of this obviousness rejection of claims 4, 16, 24, 47, 65, 68-69, and 71-72 (i.e., U.S. Patent No. 6,159,560). As a result, reliance on Seifried et al. in view of Stevenson '560 and Dahlberg et al. "as applied above" is not a proper basis for this obviousness rejection. For at least this reason, Applicants respectfully submit that a *prima facie* case of obviousness has not been established with respect to claims 4, 16, 24, 47, 65, 68-69, and 71-72.

**This argument was previously presented in the Response of March 5, 2010. The Examiner has failed to respond to this argument in the present Final Office Action.** If this rejection is maintained, Applicants respectfully request clarification regarding the usage of Stevenson et al. '560 to be included in the next Official Communication.

In addition, however, claims 4, 16, 24, and 47 depend, respectively, from independent claims 1, 22, and 44. If it was the Examiner's intention to reject claims 4, 16, 24, 47, 65, 68-69, and 71-72 as obvious over Seifried et al. in view of Stevenson et al. '980, Dahlberg et al., and Langer, Applicants respectfully submit that, as discussed above, a *prima facie* case of obviousness has not been established with respect to independent claims 1, 22, and 44 (from which claims 4, 16, 24, and 47 depend). Applicants further submit that Langer does not address the shortcomings of that primary obviousness rejection and, for at least that reason, the asserted

obviousness rejection of dependent claims 4, 16, 24, and 47 also does not meet the requirements for a *prima facie* case of obviousness.

With respect to independent claims 68-69 and 71-72, the discussion provided above in connection with the asserted obviousness rejection of claims 1-2, 5, 7-14, 16, 18-22, 26-36, 38, 40-45, 48, 50-57, 59, and 61-65 in view of the combination of Seifried et al., Stevenson et al. '980, and Dahlberg et al. applies equally as well to claims 68-69 and 71-72. As noted above, the combination of Seifried et al., Stevenson et al. '980, and Dahlberg et al. does not support a *prima facie* case of obviousness with respect to claims 1-2, 5, 7-14, 16, 18-22, 26-36, 38, 40-45, 48, 50-57, 59, and 61-65 and Langer does not address the shortcomings of that asserted obviousness rejection. For at least these reasons, Applicants respectfully submit that a *prima facie* case of obviousness has not been established with respect to claims 68-69 and 71-72 over the combination of Seifried et al., Stevenson et al. '980, Dahlberg et al., and Langer.

For at least the reasons provided above, Applicants respectfully submit that a *prima facie* case of obviousness has not been established with respect to claims 4, 16, 24, 47, 65, 68-69, and 71-72 over the combination of Seifried et al., Stevenson et al. '560 (or Stevenson et al. '980), Dahlberg et al., and Langer. Reconsideration and withdrawal of this rejection are, therefore, respectfully requested.



**Amendment and Response**

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**Summary**

It is respectfully submitted that the pending claims are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives at the telephone number listed below if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted

By

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**CERTIFICATE UNDER 37 C.F.R. §1.8:**

The undersigned hereby certifies that this paper is being transmitted via the U.S. Patent and Trademark Office electronic filing system in accordance with 37 C.F.R. §1.6(a)(4) to the Patent and Trademark Office addressed to Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 16<sup>th</sup> day of July, 2010.

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